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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,072	12/01/2003	Howard J. Yurgevich	10078P0002US	2764

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WOOD, PHILLIPS, KATZ, CLARK & MORTIMER  
500 W. MADISON STREET  
SUITE 3800  
CHICAGO, IL 60661

EXAMINER
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PATEL, KIRAN B

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 02/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/725,072

Applicant(s)

YURGEVICH ET AL.

Examiner

Kiran B. Patel

Art Unit

3612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) 6,9-12,14,15,20-25,27,29 and 33-37 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5,7,8,13,16-19,26,28 and 30-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

Non-Final Rejection

### **Election/Restriction**

1. Applicant's election with traverse of Species A, Fig 1-3, 11-13, 32, and claims 1-11, 13, 16-19, 26, 28, 30-32, is acknowledged.

Claims 12, 14-15, 20-25, 27, 29, 33-37, are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species, there being no allowable generic or linking claim.

Further, claims 6, 9-11 are withdrawn by the Examiner from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species

### **Claim Rejections - 35 USC § 112**

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 13, 16-17, 26, as best understood, are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 13, 16-17, 26, are confusing and are not clear because claimed limitations, (claim 13, at least one corrugated sheet comprises first and second corrugated sheets; claims 16-17, at least one external panel comprises first and second external panels; claim 26, at least one corrugated sheet comprises first and second corrugated sheets), are not shown in the figures and/or lacks support in the specification and therefore fails to particularly point out and distinctly claim the subject matter which applicant regards as the invention. These limitations must be shown or the feature(s) canceled from the claim(s). Applicant is requested to go through the application and ensure that the claimed matter has been described in the specification and shown in the drawing in such a way as to convey to one skilled in the art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Correction is required.

**Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-2, 4-5, 7-8, 13, 16-17, 26, 32, are rejected under 35 U.S.C. 103(a) as being unpatentable over Clive-Smith (6,109,469) in view of Winsor (4,232,612).

Regarding claims 1-2, 4-5, 7-8, 13, 16-17, 26, 32, Clive-Smith (6,109,469) discloses the invention as claimed to include a floor 18; a front wall 15; spaced side walls 8; a cargo storage space Fig 1 with a roof; at least one corrugated sheet having alternating ridges 12 and grooves 17; mechanical fasteners 17; a top rail 4; a bottom rail 5.

However, Clive-Smith (6,109,469) does not disclose an external panel.

Winsor (4,232,612) discloses in Fig 1-6 an external panel 14.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention, as disclosed by Clive-Smith (6,109,469), to include an external panel, as disclosed by Winsor (4,232,612), to define an exposed outside surface.

4. Claims 3, 18-19, 28, 30, 31, are rejected under 35 U.S.C. 103(a) as being unpatentable over Clive-Smith (6,109,469) and in view of Winsor (4,232,612) and ordinary skill in the art.

Regarding claims 3, 18-19, 28, 30, 31 Clive-Smith (6,109,469) as applied to claim 1 discloses the invention as claimed.

However, Clive-Smith (6,109,469) does not disclose one external panel define one side wall; corrugated sheet comprises steel with thickness between 0.25 to 1.5 inches; combination with a powered towing component is releasably connectable to the cargo container; wheeled carriage beneath the floor.


It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate one external panel define one side wall; corrugated sheet which comprises steel with thickness between 0.25 to 1.5 inches; combination with a powered towing component is releasably connectable to the cargo container; and wheeled carriage beneath the floor, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use to optimize the cost of the product made in light of size, availability, capacity to manufacture, manufacturing technology, transportability, optimize the number of parts, safety and other

considerations and still meet the design specifications. Higher level of cost efficiency can be achieved by identifying the required material from materials known/available in the open market place than to develop new material.

**Conclusion**

5. The prior art made of record in attached Notice of Reference Cited (PTO-892) and not relied upon is considered pertinent to applicant's disclosure. This art of record shows various features similar to the applicant's invention.

6. Any inquiry concerning this communication or earlier communications should be directed to Primary Examiner Kiran B. Patel whose telephone number is 703-305-0254. The examiner can normally be reached on M-F from 8:00 to 5:00. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

  
Kiran B. Patel, P. E.  
Primary Examiner  
Art Unit 3612  
February 14, 2005